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| <p>01. Mr. Vamsidhar R Vurimindi
313 Arch Street, Unit 607, Philadelphia, PA 19106
Plaintiff,
Vs.</p> <p>01. Mr. Dan Achek
1009 Jones Road, Gulph Mills , PA 19428</p> <p>02. Mrs. Maya Maha Elkansa
1009 Jones Road, Gulph Mills , PA 19428</p> <p>03. Achek Design & Construction Co, Inc
1009 Jones Road, Gulph Mills , PA 19428</p> <p>04. Mr. Alex Lopez
239 – 265 West Bristol Street,
Philadelphia, PA 19140</p> <p>05. ALX General Construction LLC
5071 Whitaker Avenue , Philadelphia PA 19140</p> <p>06. Mr. Henry I. Langsam
1616 Walnut Street, Suite 1700,
Philadelphia, PA 19103</p> <p>07. Mr. Bart Sacks
199 West Johnson Highway , East Norriton, PA 19401</p> <p>Defendantscontinued in next page</p> | <p>) UNITED STATES DISTRICT COURT</p> <p>) FOR THE EASTERN DISTRICT OF PENNSYLVANIA</p> <p>)</p> <p>) Civil Case No. 09-CV5976</p> <p>)</p> <p>) Complaint for Negligence</p> <p>) Complaint for Fraud, Intentional</p> <p>) Misrepresentation and Non-Disclosure</p> <p>) Complaint for Gross Negligence</p> <p>) Complaint for Emotional Distress</p> <p>) Complaint for Professional Negligence</p> <p>) Complaint for Fraud</p> <p>) Complaint for Conspiracy to Interfere with Civil</p> <p>) Rights</p> <p>) Complaint for Conspiracy against Rights of</p> <p>) Citizens</p> <p>) Complaint Tortious Interference</p> <p>)</p> <p>)</p> <p>)</p> |
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NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the **Plaintiff**. You may lose money or property or other rights important to you.

You should take this paper to your lawyer at once. If you do not have a lawyer, go to or telephone the office set forth below. This office can provide you with information about hiring a lawyer. If you cannot afford to hire a lawyer, this office may be able to provide you with information about agencies that may offer legal services to eligible persons at a reduced fee or no fee.

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Usted debe llevar este documento a su abogado inmediatamente. Si usted no tiene un abogado, llame o vaya a la siguiente oficina. Esta oficina puede proveerle información a cerca de como conseguir un abogado. Si usted no puede pagar por los servicios de un abogado, es posible que esta oficina le pueda proveer información sobre agencias que ofrezcan servicios legales sin cargo o bajo costo a personas que cualifican.

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08. **S&L Investments**)
307 Florence Avenue, Apt. 107 Jenkintown PA 19046)
09. **Mrs. Juliet Whelan**)
813 S 4th Street, Philadelphia, PA 19147)
10. **Mr. James Gabriel**, Plans Examiner,)
Department of Licenses & Inspections,)
1401 JFK Blvd, Philadelphia, PA 19102)
11. **Mr. Edward Devlin**, Inspector Trainee,)
Department License & Inspections, North District,)
601 W Lehigh, Philadelphia, PA 19133)
12. **Mrs. Frances Burns**, Commissioner,)
Department License & Inspections,)
1401 JFK Blvd, 11th Floor, Philadelphia, PA 19102)
13. **City of Philadelphia**, C/o City Solicitor's Office,)
One Parkway, 1515 Arch St., 15th Fl.,)
Philadelphia, PA 19102)

Defendants

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Civil Case No. 09-CV5976

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You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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(I) **AMENDED COMPLAINT**

01. **Plaintiff**, Vamsidhar R Vurimindi sues Defendants **Dan Achek** , Maya Maha Elkansa, Achek Design & Construction Co, Inc, **Alex Lopez** , ALX General Construction LLC, Henry I. Langsam, Bart Sacks, S & L Investments, Juliet Whelan, James Gabriel, Edward Devlin, Frances Burns and City of Philadelphia and in support states as follows:

(II) **THE PARTIES**

02. **Defndant Mr. Dan Achek** is the resident of 1009 Jones Road, Gulph Mills, PA 19428. Mr. Achek is the President of Achek Design & Construction Co Inc and operated the real estate investment, development and general contracting business in the name of Achek Design & Construction Co Inc, from the address 1009 Jones Road, Gulph Mills, PA 19428. Hereafter Defendant Mr. **Dan Achek** referred as **Dan Achek** .
03. **Defendant Mrs. Maya Maha Elkansa**, is the resident of 1009 Jones Road, Gulph Mills, PA 19428. Mrs. **Maya Maha Elkansa** is the owner of the 1778 Frankford Avenue, Philadelphia, PA 19125 and wife of **Dan Achek** . Hereafter Defendant Mrs. **Maya Maha Elkansa** referred as **Maya Maha Elkansa**, and 1778 Frankford Avenue, Philadelphia, PA 19125 property referred as **1778 Frankford Avenue**.
04. **Defendant Achek Design & Construction Co, Inc** located at 1009 Jones Road, Gulph Mills, PA 19428. Achek Design & Construction Co, Inc engaged in real estate investment, development and general contracting business. **Dan Achek** and **Maya Maha Elkansa** are the dominant partners in Achek Design & Construction Co, Inc. Hereafter Defendant Achek Design & Construction Co, Inc referred as **ADC**.

05. **Defendant Mr. Alex Lopez** is the resident of 239 – 265 West Bristol Street, Philadelphia, PA 19140. Mr. Lopez operated the general construction business in the name of in the name of ALX General Construction LLC. **Mr. Alex Lopez** is the President, ALX General Construction LLC. Hereafter Defendant Mr. **Alex Lopez** referred as **Alex Lopez**.
06. **Defendant ALX General Construction LLC** located at 239 – 265 West Bristol Street, Philadelphia, PA 19140. **Alex Lopez** is a dominant partner in ALX General Construction LLC. Hereafter Defendant ALX General Construction LLC referred as **ALX-GC**.
07. **Defendant Mr. Henry I. Langsam** worked at 1616 Walnut Street, Suite 1700, Philadelphia, PA 19103. Mr. Langsam is an attorney and a partner in law firm Langsam Stevens & Silver LLP. Mr. Langsam is a dominant partner in S & L Investments, Inc, which is engaged in real estate investment business. Hereafter Defendant Mr. Henry I. Langsam referred as **Henry Langsam** .
08. **Defendant Mr. Bart Sacks** resided at 199 West Johnson Highway, East Norriton, PA 19401. Mr. Bart Sacks is a dominant partner in S & L Investments, Inc, which is engaged in real estate investments business. Hereafter Defendant Mr. Bart Sacks referred as **Bart Sacks**.
09. **Defendant S & L Investments, Inc** located at 1616 Walnut Street, Suite 1700, Philadelphia, PA 19103. **S&L Investments** engaged in real estate business and the owner of the 1780 Frankford Avenue, Philadelphia PA 19125. **Henry Langsam** and **Bart Sacks** are dominant partners in S & L Investments, Inc. Hereafter Defendant S & L Investments, Inc referred as **S&L Investments** and 1780 Frankford Avenue, Philadelphia PA 19125 referred as **1780 Frankford Avenue**.

10. **Defendant** Mrs. Juliet Whelan is the resident of 813 S 4th Street, Philadelphia, PA 19147. Mrs. Juliet Whelan is an Architect and worked as architectural design consultant and the owner of the Jibe Design. Mrs. Juliet Whelan is the Architect on record for **1778 Frankford Avenue**. Hereafter Defendant Mrs. Juliet Whelan referred as **Juliet Whelan**.
11. **Defendant** Mr. James Gabriel worked as Plans Examiner at City of Philadelphia, Department of Licenses & Inspections, 1401 JFK Blvd, Philadelphia, PA 19102. Mr. Gabriel, as Plans Examiner administer and enforce the City's code requirements including building, plumbing, electrical, mechanical, fire, property maintenance, business, and zoning regulations to enhance the public safety. As Plans Examiner Mr. Gabriel issued a Zoning Use Permit, bearing the number 165814 dated 31st August 2008 to construct Seven (7) residential dwelling units at **1778 Frankford Avenue**. Hereafter Defendant Mr. James Gabriel referred as **James Gabriel**.
12. **Defendant** Mr. Edward Devlin worked as Inspector Trainee at City of Philadelphia, Department License & Inspections, North District , 601 W Lehigh , Philadelphia, PA 19133. Mr. Devlin, as Building Inspector administer and enforce the City's code requirements including building, plumbing, electrical, mechanical, fire, property maintenance, business, and zoning regulations to enhance the public safety. Mr. Devlin is the Building Inspector for **1778 Frankford Avenue**. Hereafter Defendant Mr. Edward Devlin referred as **Edward Devlin**.
13. **Defendant** Mrs. Frances Burns worked as Commissioner for Department License & Inspections at City of Philadelphia, MSB 11th Floor, and 1401 JFK Blvd, Philadelphia, PA 19102. Hereafter Defendant Mrs. Frances Burns referred as **Frances Burns**.

14. **Defendant** City of Philadelphia C/o City Solicitor's Office, One Parkway, 15th Floor, 1515 Arch Street, Philadelphia, PA 19102. Pursuant to Section 1 of Article XV of the Constitution and the Act of the General Assembly, approved April 21, 1949, P.L. 665, of the Commonwealth of Pennsylvania, have and can exercise all powers and authority of local self-government and have complete powers of legislation and administration in relation to its municipal functions. The City of Philadelphia have the power to enact ordinances and to make rules and regulations necessary and proper for carrying into execution its powers; and such ordinances, rules and regulations may be made enforceable by the imposition of fines, forfeitures and penalties. Hereafter Defendant City of Philadelphia referred as **City of Philadelphia**.

15. **Plaintiff** Mr. Vamsidhar R Vurimindi, resident of 313 Arch Street, Unit # 607, Philadelphia, PA 19106. Mr. Vurimindi belongs to protected class defined Civil Rights Act of 1964. Mr. Vurimindi is a male, and practice Hindu religion, born and brought up in India. Mr. Vurimindi purchased a vacant lot on 27th April 2006 for \$70,000 located at 1782 Frankford **Avenue** Philadelphia, PA 19125. Mr. Vurimindi obtained a \$346,000 construction loan from Wachovia Mortgage FSB in November 2007 and agreed to complete the construction by November 2008, in order to convert the construction loan into a permanent mortgage by Wachovia Mortgage FSB. Mr. Vurimindi started the construction work in December 2007 to build multifamily residential building consists of a basement and three floors at 1782 Frankford **Avenue** Philadelphia, PA 19125. Mr. Vurimindi's General Contractor M/s. Rising Construction LLC claimed that the construction of multifamily residential building is substantial completed by 18th August 2008. Mr. Vurimindi incurred a total expense of \$420,000 amount by 18th August 2008, and waiting to receive a Certificate of Occupancy (CO) from City of Philadelphia. Hereafter 1782 Frankford **Avenue** Philadelphia, PA 19125 referred as **1782 Frankford Avenue**. Hereafter **Plaintiff** Vamsidhar R Vurimindi referred as **Plaintiff**.

16. **Plaintiff** is informed and believes **Dan Achek , Maya Maha Elkansa, ADC, Alex Lopez, ALX-GC , Henry Langsam , Bart Sacks, S & L Investments, Juliet Whelan, James Gabriel, Edward Devlin, Frances Burns and City of Philadelphia** thereon alleges that, at all times herein mentioned, each of the defendants sued herein at all times acting within the purpose and scope of such agency and employment.

(III) FACTUAL BACKGROUND

17. On 15th September 2004, **Maya Maha Elkansa** purchased **1778 Frankford Avenue** for \$51,000. **1778 Frankford Avenue** is a non-conforming structure and been discontinued in use for more than a period of three consecutive years by 10th July 2008.
18. **Dan Achek** and **Maya Maha Elkansa** proposed to build seven (7) residential dwellings at **1778 Frankford Avenue** and promoted the condominium development project at **1778 Frankford Avenue** for profit. **Dan Achek** drafted the floor plans for seven (7) residential units at **1778 Frankford Avenue**.
19. On 15th February 2008, **Dan Achek** and **Juliet Whelan** entered into an "Architectural Design and Structural Drawings Service Agreement" to prepare the required construction documents to obtain the Zoning Use and Building Permits on expedited basis for **1778 Frankford Avenue**.
20. **Juliet Whelan** agreed to provide the following services to **Dan Achek** . Copy of "Architectural Design and Structural Drawings Service Agreement" is attached hereto as **Exhibit – I** and made a part hereof.
- (a) Preparing Schematic Design Drawings
 - (b) Design & Development of Permit Drawings
 - (i) Site Plan
 - (ii) Basement Plan
 - (iii) 1st Floor Plan
 - (iv) 2nd Floor Plan
 - (v) 3rd Floor Plan

- (vi) Roof Plan
- (vii) Structural Foundation Plan
- (viii) Structural Framing Plans for Floors 1, 2, 3 and Roof
- (ix) Building Section
- (x) Exterior Building Elevations
- (c) Structural Drawings in consultation with Structural Engineer
- (d) Expediting the permits from City of Philadelphia

21. On 21st July 2008, **Juliet Whelan** signed the proposed building elevation and plot plan. The building elevation and plot plans for **1778 Frankford Avenue** to build Seven (7) Residential dwellings at **1778 Frankford Avenue**. Copies of the proposed building elevation and plot plan drawings are attached hereto as **Exhibit – II** and made a part hereof. As per Site Plan' general building data section, **Juliet Whelan** stated as follows:

- Applicable Codes : International Building Code 2006;
International Existing Building Code 2006
- Construction Materials : Masonry
- Construction Classification : Not legible from the printout
- Use : 7 Residential Condominiums
- Occupancy Group : R2
- Fire Suppression : Fully Sprinkled to NFPA 23R

22. On 22nd July 2008, **Juliet Whelan** made an application for Zoning Use Permit for **1778 Frankford Avenue**. Copy of the Zoning Use Permit Application is attached hereto as **Exhibit – III** and made a part hereof. **Juliet Whelan** stated in the zoning use permit application' "Proposed Use of Building" section as follows:

- Basement : Storage; 1 Residential Unit
- 1st Floor : 2 Residential Units
- 2nd Floor : 2 Residential Units
- 3rd Floor : 2 Residential Units

23. Per the proposed building elevation drawings - Elevations A 2.1, **Juliet Whelan** proposed the height of the basement is 2 feet 6 inches above grade and 6 feet 10 inches below grade. The basement foundation and footings for **1778 Frankford Avenue** are further below the 6 feet 10 inches below grade.
24. **Dan Achek , Maya Maha Elkansa, ADC and Juliet Whelan** together agreed to construct a seven (7) family dwelling building not exceeding 35 feet in height two family dwellings on each floor above grade and one family dwelling in the basement at **1778 Frankford Avenue**
25. On 15th September 2004, **Maya Maha Elkansa** purchased the **1778 Frankford Avenue** and the building has been sealed since then. Hence, the **1778 Frankford Avenue** discontinued in use more than three consecutive until the Zoning Use Permit # 165814 issue date 12th August 2008. The pictures in **Annexure VI - Figure 9 to Figure 12** depict the exterior condition of **1778 Frankford Avenue**. The pictures in **Annexure VII - Figure 13 to Figure 22** depict the interior condition of **1778 Frankford Avenue**. The pictures depict that **1778 Frankford Avenue** abandoned more than three (3) consecutive years.
26. As per The Philadelphia Code, § 14-104. Non-Conforming Structures and Uses, Discontinued Use, **1778 Frankford Avenue** is a Non-Conforming Structure, discontinued in use more than three consecutive years, and abandoned and should not resumed to prior use. Any new Zoning Use Permit for **1778 Frankford Avenue** must comply with the use requirements of the district in which it is located.
27. However, ignoring the facts, on 12th August 2009, **James Gabriel** approved the Zoning Use Permit for **1778 Frankford Avenue**, to use **1778 Frankford Avenue** as a Seven (7) Residential dwellings property.

28. On 13th August 2009, **James Gabriel** issued a Zoning Use Permit # 165814 with that effect. Copy of the Zoning Use Permit is attached hereto as **Exhibit – IV** and made a part hereof.
29. On 27th August 2008, **ADC** and **ALX-GC** entered into a contract to perform the work stipulated by Contract Agreement between General Contractor and Sub-Contractor, "Work Exhibit A – Scope of the Contract. Contract Agreement between General Contractor and Sub-Contractor is attached hereto as **Exhibit – V** and made a part hereof.
30. In the last week of **August 2008**, **Dan Achek** , **Maya Maha Elkansa**, **ADC**, **Alex Lopez**, and **ALX-GC** demolished the old structure at **1778 Frankford Avenue**, without notifying the neighbors' and without bracing or shoring to the party wall of **1780 Frankford Avenue** towards the **1778 Frankford Avenue**.
31. **Dan Achek** , **ADC**, **Alex Lopez**, and **ALX-GC** , did not conduct the demolition work to minimize interference with adjacent structures. Further, did not sprinkle the demolition areas with water to minimize the dust. Further, did not follow the standard demolition practices laid out in **Annexure – I**. The pictures in **Annexure VII** - Figure 13 to Figure 21 depict the said violations to 2006 ICC Building Code, The Philadelphia code and OSHA regulations.
32. **Edward Devlin** neither inspected the demolition work nor issued violation notice(s) for violation to the 2006 ICC Building Code, The Philadelphia code and OSHA regulations by **Dan Achek** , **ADC**, **Alex Lopez**, and **ALX-GC** .